

**STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF BROOKHAVEN**

**ORD 2014-09-04**

**ORDINANCE FOR TEXT AMENDMENTS AND THE READOPTION OF CHAPTER  
21- SIGN ORDINANCE IN ITS ENTIRETY**

WHEREAS, the City of Brookhaven is authorized to exercise the power of zoning and the regulation of signs under Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-2(b), Section 1.03(b)(25) of the Charter of the City of Brookhaven, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and

WHEREAS, the City of Brookhaven adopted Chapter 21 of the City of Brookhaven Code of Ordinances on January 15, 2013; and

WHEREAS, the Planning Commission has held a noticed public hearing on the proposed amendments to the text and the readoption of Chapter 21; and

WHEREAS, after conducting a noticed public hearing, the City of Brookhaven has determined that the amendment to the text of Chapter 21 and the readoption of Chapter 21 in its entirety bears a substantial relationship to the public welfare and achieves the purposes contained in Section 27-2 and Section 21-2 of the City of Brookhaven Code of Ordinances.

**BE IT ORDAINED** by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

**SECTION I:**

Chapter 21 is deleted in its entirety and that the following is adopted as Chapter 21:



Chapter 21 - SIGNS

**Chapter 21 - SIGNS**

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - REGULATIONS AND RESTRICTIONS

**ARTICLE I. - IN GENERAL**

Sec. 21-1. - Purpose and findings.

Sec. 21-2. - Definitions.

**Sec. 21-1. - Purpose and findings.**

The City Council further finds that signs provide an important medium through which persons may convey a variety of noncommercial and commercial messages. However, left completely unregulated, the number, size, design characteristics, and locations of signs in the city can become a threat to public safety as a traffic hazard and a detriment to property values and to the city's general public welfare, as well as create an aesthetic nuisance. The city, further, finds that signs have become excessive and that many signs are distracting and dangerous to motorists and pedestrians, are confusing to the public and substantially detract from the beauty and appearance of the city. The city finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the following regulations. The purpose and intent of the governing authority of the City of Brookhaven in enacting this chapter are as follows:

- (1) To protect the health, safety and general welfare of the citizens of the City of Brookhaven, and to implement the policies and objectives of a comprehensive development plan of the city through the enactment of a comprehensive set of regulations governing signs in the City of Brookhaven;
- (2) To regulate the erection and placement of signs within the City of Brookhaven in order to provide safe operating conditions for pedestrian and vehicular traffic without unnecessary and unsafe distractions to drivers or pedestrians;
- (3) To preserve the value of property on which signs are located and from which signs may be viewed;
- (4) To maintain an aesthetically attractive city in which signs are compatible with the use patterns of established zoning districts;
- (5) To maintain for the city's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interest of the city;
- (6) To establish comprehensive sign regulations that effectively balance legitimate business and development needs with a safe and aesthetically attractive environment for residents, workers, and visitors to the city;
- (7) To provide fair and reasonable opportunities for advertisement by the business community located within the city so as to promote the economic vitality of local businesses;
- (8) To ensure the protection of free speech rights under the State and United States Constitutions with the City of Brookhaven;



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- (9) To establish a permit system to allow specific types of signs in zoning districts consistent with the uses, intent and aesthetic characteristics of those districts;
- (10) To allow certain signs that are small, safe, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this chapter but without a requirement for permits;
- (11) To provide for temporary signs in limited circumstances;
- (12) To place reasonable controls on nonconforming signs that are by definition contrary to the public health, safety and welfare while protecting the constitutional rights of the owners of said nonconforming signs; and
- (13) To provide for the maintenance of signs, and to provide for the enforcement of the provisions of this chapter.

**Sec. 21-2. - Definitions.**

For the purposes of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular, the word "shall" is mandatory and not directory, the word "person" includes a firm, organization, partnership, trust and corporation, and the word "city" shall mean the City of Brookhaven, Georgia.

As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

*Aggregate sign area* shall mean the sum total of the sign area of any and all signs for a given lot. Subdivision signs and flags are excluded from any determination of aggregate sign area in residentially zoned districts. Street numbers assigned by the United States Postal Service not exceeding six inches (6") in height for residential districts and twelve inches (12") in height for non-residential districts shall not be considered in calculating the aggregate sign area.

*Animated sign* shall mean a sign that all or any part thereof visibly moves or uses movement or a change of lighting to depict action or to create a special effect or scene. This includes signs that rotate or revolve or signs that display a message in more than one (1) direction. Provided, however, that official traffic control devices and warning signs conforming to the Manual of Uniform Traffic Control Devices are excluded from this definition. Electronic signs meeting the standards of section 21-22 are excluded from this definition.

*Area of a sign/sign area* shall mean the total area upon which a message is displayed on any sign consisting of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire sign, inclusive of any border and trim, but excluding the base, apron, supports, and other structural members. For double-faced signs, the side of the sign with the largest sign area shall be used in computing the sign area.

*Banner* shall mean a sign other than a flag with or without characters, letters, illustrations or ornamentation applied to cloth, paper or fabric that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners. Standard informational signs are excluded from the definition of a banner.

*Business day* shall mean any day during which city government offices are open for public business. For purposes of this chapter, a "business day" shall not include any day during which city government offices are closed after a partial business day due to a holiday, emergency, inclement weather, or the like.

*Candela* means a unit of luminous intensity equal to one-sixtieth (1/60th) of the luminous intensity per square centimeter of a blackbody radiating at the temperature of solidification of platinum (2,046K).



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*Canopy sign* shall mean a sign affixed to, superimposed upon, or painted on any roof or roof-like structure which is extended over a sidewalk, walkway, or vehicle access area.

*Commercial message* means sign copy which advertises or directs attention to a business, product, service or transaction, whether existing or proposed.

*City* shall mean Brookhaven, Georgia.

*Directional sign* shall mean a sign placed within five (5) feet of an authorized curb cut for the purpose of ensuring the safe movement of traffic onto or off of the lot.

*Director* shall mean the director of the community development department, or his/her designee.

*Double-faced sign* shall mean a sign which has two (2) display areas placed back to back against each other and the interior angle formed by the display areas is less than fifty-nine (59) degrees, where one (1) sign face is designed to be seen from one direction and the other face from another direction.

*Electronic sign* shall mean a message on a lawfully permitted sign, the electronic portion of which may be changed at intervals by electronic process or by remote control.

*Entrance sign* shall mean any ground sign placed at the intersection of a public street and a private entrance into an apartment, office, condominium, church or industrial complex or some other building with multiple residential or commercial units.

*Facade* shall mean the exterior wall of a building facing any street which provides direct ingress and egress to the lot.

*Flag* shall mean any fabric contained colors, patterns, or symbols used as symbol of government or other entity or organization.

*Flagpole* shall mean a freestanding structure or a structure attached to a building or to the roof of a building on a parcel of record and used for the sole purpose of displaying flags.

*Ground sign* shall mean any sign supported by uprights or braces or resting upon a foundation in the ground that is not supported or suspended from any building, or any sign securely affixed to a substantial support structure which is permanently attached to the ground and wholly independent of any building for support. Ground sign shall not include Sidewalk signs.

*Historic sign* means a sign deemed worthy of preservation by reason of its value to the City of Brookhaven for one (1) or more of the following reasons:

- (a) It is an outstanding example of a sign representative of its era;
- (b) It is one of the few remaining examples of past sign design or style;
- (c) It is a sign associated with an event or person of historic or cultural significance to the City of Brookhaven; or
- (d) It is a sign of esthetic interest that is continuing to contribute to the cultural or historical development and heritage of the City of Brookhaven.

*Illegal sign* shall mean any sign that was erected in violation of the laws, as they existed at the time the sign permit was issued or signs that were not built in conformity with the issued permit or signs requiring a permit that were erected without a permit first having been obtained.

*Illuminated sign* shall mean a sign that has light cast upon the sign from a source either internal to the sign or from an external light source directed primarily toward such sign.

*LED sign* shall mean an electronically controlled sign utilizing light-emitting diodes or similar technology to form some or the entire sign message. LED signs are a form of electronic signs.

*Lot* shall mean a designed parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.



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*Lot, substandard* shall mean a designated parcel, tract, or area of land created after the time of enactment of this chapter or amendment of this chapter which does not meet the lot area; lot width, or public street frontage and access requirements of this chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record as defined in the city zoning ordinance.

*Luminance* means a measure of the brightness of a luminous surface, measured in candelas per unit area.

*Monument sign* shall mean a ground sign with a base constructed of brick, stone, or other architectural masonry material. The sign shall constitute a solid visual block from the base to the top of the sign. For purposes of determining the sign area of a monument sign, the entire structure from the ground to the top of the sign, inclusive of all mass, shall be the sign area.

*Multi-faced sign* shall mean a sign structure with more than two (2) sign faces situated so that each sign face is facing a different direction.

*Nits* means a unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter.

*Nonconforming sign* shall mean any sign, legal at the time of erection, but which does not conform to the provisions of this chapter.

*Planned commercial center* means any commercial, office, industrial or mixed-use development that contains any combination of offices, residences, retail or industrial uses with a common entry from a public street and are managed as a whole and in accordance with all applicable requirements of the zoning ordinance.

*Portable sign* shall mean any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground.

*Primary facade* shall mean the facade of the building that is most nearly parallel to widest street to which the building faces.

*Projecting sign* shall mean any sign which is attached perpendicular to a building or other structure and extends more than twelve (12) inches horizontally from the plane of the building wall.

*Pump-island sign* shall mean a sign located under a canopy over pump islands of a service station or convenience store with gas pumps.

*Road, accessible* shall mean any road or street that provides a means of ingress and egress to the lot.

*Street frontage* shall mean the lot line that shares a common boundary with any road or street.

*Roof sign* shall mean a sign attached to or supported by the roof of a building that extends above the immediately adjacent roof line of the building or a sign that is wholly or partially above the roof line of a building.

*Rotating sign.* See *animated sign*.

*Secondary facade* shall mean any facade that is not the primary facade.

*Sign* shall mean a device, structure or representation for visual communication which is used for the purpose of bringing the subject thereof to the attention of others. For purposes of this chapter, the term "sign" shall include the structure upon which a sign face is located. Flags and banners shall be included within this definition only as provided elsewhere herein. Seasonal holiday decorations shall not be included within the definition of "sign" and regulated as such.



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*Sidewalk signs* are defined as an A-frame or easel style sign to be placed on the sidewalk in conjunction with a business establishment. Sidewalk signs are permitted only within the Brookhaven-Peachtree Overlay district.

*Standard informational sign* shall mean a non-illuminated sign with a rigid sign face made for short term use, containing no reflecting elements, flags or projections and which is mounted on a post, stake or metal frame with a thickness or diameter not greater than three and one-half inches. Each Standard informational sign shall not be greater than four (4) feet above ground level and are limited to either one (1) sign that is sixteen (16) square feet in area or up to four (4) signs not to exceed an aggregate sign area of sixteen (16) square feet. Banners are not included in the definition of a standard informational sign.

*Store front* shall mean the exterior wall of a single, undivided unit located within a planned commercial center or business park.

*Subdivision sign* shall mean any ground sign placed at the intersection of two (2) roads, at least one (1) of which is a public road, with the other road being the main thoroughfare into and out of a commercial or residential subdivision.

*Suspended sign* shall mean a sign securely suspended above a pedestrian passageway from beneath a canopy or awning and oriented perpendicular to the adjacent building facade.

*Tri-vision sign* shall mean a sign designed with a series of triangular slats that mechanically rotate in sequence with one another to show three different sign messages in rotation.

*Wall sign* shall mean a sign fastened, placed or painted upon or parallel to the exterior wall of the structure itself, whether front, rear or side of the structure.

*Window sign* Any sign that is placed inside a window, within two (2) feet of a window, or upon the window panes or glass, either inside or outside the building, and is visible from the exterior of the structure. Window signs shall not cover more than thirty percent (30%) of the total window area of a business.

## ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

### Sec. 21-3. - Permits.

### Sec. 21-4. - Application information.

### Sec. 21-5. - Time for consideration and issuance.

### Sec. 21-6. - Denial and revocation.

### Sec. 21-7. - Permit expiration.

### Sec. 21-8. - Enforcement and penalties.

### **Sec. 21-3. - Permits.**

- (a) Except as specifically excluded from the requirements for obtaining a permit, it shall be unlawful for any person to post, display, substantially change, or erect a sign in the city without first having obtained a sign permit or any other permit required by this chapter or other ordinances of the city.
- (b) Existing signs which conform to the provisions of this chapter that would be required to obtain a permit under the regulations of this chapter must register with the director within ninety (90) days of



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the effective date of this chapter if such signs do not have a valid permit pursuant to a previous ordinance and pay a permit fee. The information provided for registration will be the same information required in a permit application under section 21-4. No permit fee will be required for the registration of existing signs which have a current valid permit under any previous ordinance regulating signs.

**Sec. 21-4. - Application information.**

(a) Applications for sign permits required by this chapter shall be filed by the sign owner or the owner's agent with the director. The application shall describe and set forth the following:

- (1) The street address of the property upon which sign is to be located and a plat map of the property which bears an indication of the proposed location of the sign;
  - (2) The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located;
  - (3) Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign;
  - (4) Name, address, phone number and occupational tax certificate number of the sign contractor;
  - (5) The type of sign to be erected, the area of the sign, the height of the sign, the shape of the sign, how the sign is to be illuminated (if at all) and an explanation of how the sign is to be mounted or erected;
  - (6) The size of the lot on which the sign is to be placed;
  - (7) The payment in full of the applicable application fee; and
  - (8) Applications for ground signs shall include a site plan drawn to scale, including a closed boundary survey of the property gross acreage, the proposed location of subject sign, location of all ground signs on the property, entrance driveways from public streets, street rights-of-way, public or private easements, building locations, gross area of buildings and floor area occupied by subject owner or tenants.
- (b) The director shall develop such forms as may be necessary to facilitate the permit application process.
- (c) The applicant shall apply for all other permits or licenses required by city ordinances and state laws and regulations. Obtaining a sign permit does not exempt the permit holder from obtaining and complying with all other permits required for the sign structure.
- (d) Each application shall contain an agreement to indemnify and save the city harmless of all damages, demands or expenses of every character which may in any manner be caused by the sign or sign structure. Each applicant shall present to the department, on a request, a certificate of liability insurance prior to the issuance of a sign permit.

**Sec. 21-5. - Time for consideration and issuance.**

The director shall process all sign permit applications within forty-five (45) business days of the director's actual receipt of an application and a sign permit fee. The director shall give notice to the applicant of his/her decision by hand delivery or by mailing a notice, by certified mail, return receipt requested, to the address on the permit application on or before the forty-fifth business day after the director's receipt of the application. If mailed, notice shall be deemed to have been given upon the date of



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mailing in conformity with this section. If the director fails to act within the forty-five-day period, the permit shall be deemed to have been granted. A sticker or other device bearing the sign permit number shall be affixed to the sign structure.

**Sec. 21-6. - Denial and revocation.**

- (a) *Procedure.* The director shall deny permits to applicants that submit applications for signs that do not comply with the provisions of this chapter, incomplete applications, and applications containing any false material statements. Should it be determined that a sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this chapter, the director shall revoke the permit. Should the director deny or revoke a permit, the reasons for the denial or revocation are to be stated in writing and hand delivered or mailed by certified mail, return receipt requested, to the address on the permit application on or before the forty-fifth business day after the director's receipt of the application. Any application denied and later resubmitted shall be deemed to have been submitted on the date of resubmission, instead of the date of the original submission. Violation of any provision of this chapter and any other applicable state laws or city ordinance regulating signage will be grounds for denying a permit or revoking a permit granted by the city for the erection of a sign. No permit shall be denied or revoked, except for due cause as hereinafter defined. "Due cause" is the violation of the provisions of this chapter, other applicable ordinances, state or federal law regulating signage, or the submission of an incomplete application or an application containing false material statements.
- (b) *Appeals.* The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged that there is an error in the denial or revocation of a sign permit under this chapter. All such appeals shall be heard and decided following the notice requirements of subsection (c) of this section and pursuant to the following criteria and procedural requirements:
  - (1) *Appeal of decision by administrative officials.* A denial or revocation pursuant to this chapter shall be appealable by filing with the secretary of the zoning board of appeals an application for appeal on the forms provided by the community development department specifying the grounds thereof, within 15 calendar days after the action appealed from was taken. The application fee for an appeal under this section shall be the same as that established by the city council for an appeal under chapter 27.
  - (2) *Decision of the board.* Following the consideration of all testimony, documentary evidence, and matters of record, the board shall make a determination on each appeal. An appeal shall be sustained only upon an expressed finding by the board that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.
  - (3) *Time for final decision.* A final decision will be rendered by the board within 90 days from date an appeal is filed. If a final decision is not rendered within the 90-day period, the decision sought to be appealed shall be reversed.
- (c) *Notice of public hearings.* Notice of public hearing before the board on any application for appeal or variance shall be provided as follows:



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(1) Written notice of the nature of the proposed application, and the date, time, and place of the public hearing before the board shall be mailed by first class mail to all property owners within 500 feet of the boundaries of the subject property as measured by use of the official zoning maps, and as such property owners are listed on the tax records of the city, at least 30 days before the public hearing before the board;

(2) Signs of no less than 12 square feet, in a color designated by the community development director or his designee, shall be posted within the public right-of-way or on the subject property at least 30 days before the hearing before the board. One sign shall be posted for each 500 feet of street frontage or fraction thereof along each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street in order that said signs can be read by the traveling public in both directions. The lettering on the signs shall be printed and at least one inch in size and the sign shall state the nature of the proposed application and the date, time and place of the public hearing before the board; and

(3) Notice of the nature of the proposed application and the date, time and place of the public hearing before the board shall be published in the newspaper of general circulation within the city in which are carried the legal advertisements of the city at least 30 days prior to the date of the hearing before the board and not more than 45 days prior to the date of the hearing before the board.

(4) The cost of all signs posted, and notice mailings sent, pursuant to this section shall be specifically paid by the applicant in addition to all other applicable application costs.

(5) Applications may be withdrawn by the applicant or applicant's representative in writing without prejudice at any time before the vote of the zoning board of appeals on the application. All fees submitted shall be forfeited in any case where the application is withdrawn after it has been advertised for a public hearing in a newspaper of general circulation.

- (d) *Certiorari*. In the event a person whose permit has been denied or revoked is dissatisfied with the decision of the zoning board of appeals, a person may petition for writ of certiorari to the Superior Court of DeKalb County as provided by law.

**Sec. 21-7. - Permit expiration.**

A sign permit shall become null and void if the sign for which the permit was issued has not been completed and fully installed within six (6) months after the date of issuance; provided, however, that where an applicant can demonstrate that a contractor was timely engaged to construct the permitted sign, but the fabrication has not yet been completed due to the fault of the contractor, one (1) sixty (60) day extension may be granted by the Director or his or her designee. No refunds will be made for permit fees paid for permits that expired due to failure to erect a permitted sign. If an individual later desires to erect a sign at the same location, a new application must be processed and another fee paid in accordance with the fee schedule applicable at such time.

**Sec. 21-8. - Enforcement and penalties.**

- (a) The director may issue a citation for violation of this chapter by any person, including if applicable, the owner, manager or tenant of the lot upon which a sign is located, for a sign erected, altered,



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maintained, converted, or used in violation of this chapter or in violation of any other applicable ordinance regulating signage, including, but not limited to the building and electrical codes.

- (b) The director shall have the same duties, authority, and obligations regarding access to private property, inspections, including the procurement of inspection warrants provided in Chapter 27 of the Code with regard to the enforcement of this chapter.
- (c) Any person violating any provision of this chapter shall be guilty of an offense and upon conviction, shall be subject to the general penalty provided in the Code. Each sign installed, created, erected or maintained in violation of this chapter shall be considered a separate violation. For continued violations, citation for each sign issued on separate days shall be considered a separate violation when applying the penalties authorized in the Code.
- (d) The city may seek affirmative equitable relief in a court of competent jurisdiction to cause the removal or repair of any sign in violation of this chapter or other city ordinances.
- (e) The director, any city employee who operates an assigned city-owned vehicle, or any person contracting with the city for such purpose may, without notice, remove and dispose of any prohibited sign, signal, device or other structure erected, placed or maintained on the dedicated right of way of any public road. Such removal and disposal of a prohibited sign, signal, device or other structure shall not preclude the prosecution of any person for erecting, placing or maintaining such item in the dedicated public right-of-way.

**ARTICLE III. - REGULATIONS AND RESTRICTIONS**

Sec. 21-9. - Exemptions.

Sec. 21-10. - Fees.

Sec. 21-11. - Prohibited signs.

Sec. 21-12. - Owner's consent required.

Sec. 21-13. - Restrictions in residential zoning districts.

Sec. 21-14. - Height and setback requirements.

Sec. 21-15. - Convenience stores and service stations with pump islands.

Sec. 21-16. - Non-commercial messages.

Sec. 21-17. - Wall or projecting signs.

Sec. 21-18. - Ground signs.

Sec. 21-19. - Canopy signs.

Sec. 21-20. - Non-residential zoning district regulations.

Sec. 21-21. - Special event signs.

Sec. 21-22. - Electronic signs.

Sec. 21-23. - Nonconforming signs.

Sec. 21-24. - Illumination.

Sec. 21-25. - Standard informational signs.

Sec. 21-26. - Sidewalk signs.

Sec. 21-27. - Variances.

Sec. 21-28. - Flags.



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Sec. 21-29. - Banners.

Sec. 21-30. - Severability.

**Sec. 21-9. - Exemptions.**

- (a) The following signs shall be exempt from the permit requirements of section 21-3 above; provided, however, that such signs shall be subject to all other provisions of this chapter:
- (1) Window signs;
  - (2) Standard informational signs as provided in Section 21-25;
  - (3) One (1) suspended sign per tenant of a multi-tenant building when the area of the sign is less than six (6) square feet per side and a common design for such signs has been established by the owner and approved by the public authority;
  - (4) Signs for the sole purpose of displaying street numbers assigned by the United States Postal Service not exceeding six inches (6") in height for residential districts and twelve inches (12") in height for non-residential districts;
  - (5) Flags as provided in section 21-28 on lots in all districts and banners on lots in residential zoning districts as provided in section 21-29(5);
  - (6) Nongovernmental traffic control devices in or adjacent to parking areas and driveways and signs located at railroad crossings;
  - (7) Historic signs where:
    - a. The property, building or structure where the historic sign is to be located is designated as a historic property by the City Council; and
    - b. A previous sign must have been located on the property. The historic sign's former existence, original design, original size, original color(s), original composition and other original aesthetic qualities of the historic sign shall be shown to the director's satisfaction by photograph(s) or other documentation. The new historic sign shall be an exact replica of the original sign located on the property;
  - (8) Signs and warning devices meeting the standards of the Manual on Uniform Traffic Control Devices and installed or utilized by governmental authority or by persons and entities duly authorized to work on the public rights-of-way while such work is in progress; and
  - (9) Sidewalk signs, in the Brookhaven-Peachtree Overlay district.
  - (10) Banners in residential areas as provided in section 21-29.

**Sec. 21-10. - Fees.**

The cost of a sign permit shall be established by the City Council and collected by the director.

**Sec. 21-11. - Prohibited signs.**

The following types of signs are prohibited throughout the city:



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- (1) Signs placed in the dedicated right-of-way of any public road other than publicly owned or maintained signs and signs pertaining to railroad crossings.
- (2) Window signs which exceed thirty (30) percent of the total window area for the entire business;
- (3) Signs that contain words, pictures, or statements which are obscene, as defined by O.C.G.A. § 16-12-80, as amended;
- (4) Signs that simulate an official traffic control device, warning sign, or regulatory sign or which hide from view any traffic control device, signal or public service sign;
- (5) Signs that emit or utilize in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing abilities;
- (6) Signs that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs;
- (7) Signs erected by nailing, fastening or affixing the sign in any manner to any tree, curb, utility pole, natural feature, or other structure except as may be set forth herein;
- (8) Animated signs;
- (9) Signs that obstruct any fire escape, any means of egress or ventilation or that prevent free passage from one part of a roof to any other part thereof, as well as signs attached to any fire escape;
- (10) Signs that do not conform to city building and electrical codes;
- (11) Signs for which a permit is required that do not display the sign permit number and the name and address of the person responsible for erecting and maintaining the sign;
- (12) Roof signs;
- (13) Multi-faced signs, including:
  - a. Tri-Vision signs; and
  - b. LED signs not meeting the standards of sections 21-22;
- (14) Signs erected after the effective date of adoption of this chapter that are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted;
- (15) Any sign constructed of non-durable material including, but not limited to, paper, cardboard or flexible plastic. This provision does not apply to flags or banners which are governed by sections 21-28 and 21-29 or special event signs which are governed by section 21-21;
- (16) Portable signs;
- (17) Signs located on any substandard lot created after the enactment of this chapter, unless the substandard lot is created as the result of governmental action;
- (18) Abandoned commercial signs. Commercial signs (including sign structures) shall be deemed abandoned if the business, service or commercial transaction to which it relates has been discontinued for six (6) months;
- (19) Any sign that is structurally unsound, or is a hazard to traffic or pedestrians;
- (20) Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy; and



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(21) Illegal signs.

**Sec. 21-12. - Owner's consent required.**

No sign may be permitted or posted on property without the consent of the property's owner or authorized agent. Should it be determined that a sign was erected on a lot pursuant to an alleged agent's incorrect representation that the record owner of the lot in fact gave permission for the erection of a sign, the permit for such sign shall be revoked as provided in section 21-6 herein.

**Sec. 21-13. - Restrictions in residential zoning districts.**

The following regulations shall pertain to lots located in R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, NCD and R-NCD zoning districts:

- (1) Lots used for residential purposes other than for apartments, condominium, mobile home, or townhouse developments shall not have an aggregate sign area greater than twenty-four (24) square feet per lot. Flags shall not be included in the calculation of aggregate sign area. Subdivision and entrance signs shall not be included in the calculation of aggregate sign area;
- (2) Lots used for apartments, condominiums, mobile homes, or townhouse developments shall not have an aggregate sign area exceeding six (6) square feet per unit, not to exceed an aggregate of one hundred (100) square feet for the development;
- (3) There shall be a maximum of two (2) subdivision/entrance signs per entrance into any residential subdivision or real estate development in a residential district;
- (4) Ground signs are prohibited, with the exception of subdivision signs and entrance signs;
- (5) No sign in any residentially zoned district may be illuminated, except for subdivision and entrance signs, subject to the provisions of section 21-24 hereof. No subdivision or entrance sign may be internally illuminated;
- (6) No single sign in a residential zoning district governed by this section, except for subdivision signs, entrance signs, standard information signs and banners, may exceed six (6) square feet in size;
- (7) Subdivision and entrance signs shall not exceed thirty-two (32) square feet of sign area, excluding the base, and shall not exceed six (6) feet in height;
- (8) Any commercial message on a sign located on any lot in any residential district must be related to the physical premises on that lot. Such a message may be deemed related to the lot physical premises if it indicates the provider of services to or regarding the premises. This provision does not legalize any sign prohibited by section 27-751 of the zoning ordinance; and
- (9) Should any new zoning district be created that incorporates any residential use, this section shall apply to such new district unless otherwise stated in the ordinance creating the new zoning district.
- (10) No electronic signs are allowed in any residential zoning district if that district is designated by City of Brookhaven as a historic district. No electronic signs shall be allowed in any other residential zoning district except one electronic sign per property for a place of worship, private elementary, middle, or high school provided such sign meets all requirements of section 21-22(b).



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(11) Standard Informational signs are allowed as provided in section 21-25.

(12) Banners are allowed as provided in section 21-29.

**Sec. 21-14. - Height and setback requirements.**

(a) All signs shall be set back as follows:

- (1) Ten (10) feet from the curb line of each street adjacent to the lot upon which the sign is situated where an authorized curb cut exists; (applicable to all zoning districts);
- (2) If the right-of-way is more than ten (10) feet from the curb line as described in (1) above, the sign, including its footing or foundations, shall be setback at least one (1) foot from the right-of-way (applicable to all zoning districts);
- (3) In a residential zoning district, if the distance between the right of way to the front of the principal structure is less than fifteen (15) feet, signs shall be setback two-thirds (2/3) of the distance between the curb line and the front of the principal structure on the lot on which the sign is located;
- (4) Along all lot lines which are not adjacent to a road with an authorized curb cut, any and all signs shall be within the buildable area of the lot. All signs shall be so located and shall provide such vertical clearance as to provide for safe, convenient and unobstructed passage for pedestrians and vehicles.

(b) No sign or sign structure above a height of three (3) feet shall be maintained within fifteen (15) feet of the intersection of the right-of-way lines extended of two (2) streets, or of a street intersection with a railroad right-of-way. However, a sign support structure not more than ten (10) inches in diameter may be located within the required corner visibility area if all other requirements of this chapter are met and the lowest elevation of the sign surface is at least twelve (12) feet above the ground level.

(c) Window signs are only allowed on the ground floor of a building.

(d) Also see regulations in section 21-18 below.

**Sec. 21-15. - Convenience stores and service stations with pump islands.**

In addition to the signs otherwise allowed in this chapter, convenience stores and service stations with pump islands may have signage subject to the following limitations:

- (1) Within the limits of the canopy covering the pump islands, one (1) sign per canopy face per public street frontage with a maximum of six (6) square feet.
- (2) Within the limits of the canopy covering the pump islands, pump-island signs shall be limited to no more than two (2) signs per island, not to exceed four (4) square feet per sign. However, total square footage of all pump island signs shall not exceed twenty-four (24) square feet.
- (3) Accessory car wash, if a separate drive-through car wash building is on site, one (1) additional wall sign per face of car wash, not to exceed five (5) square feet, may be permitted.



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**Sec. 21-16. - Non-commercial messages.**

Any sign provided for in any zoning district may contain non-commercial messages.

**Sec. 21-17. - Wall or projecting signs.**

- (a) Wall or projecting signs shall be securely fastened to the building surface.
- (b) No wall sign greater than one hundred eighty (180) square feet shall be placed below the twelfth story of a building.
- (c) Projecting signs may project from the building up to two (2) feet; provided that no projecting sign shall be maintained less than ten (10) feet above the ground level when erected over pedestrian walkways or driveways and no less than fourteen (14) feet above vehicle access.
- (d) No wall or projecting sign shall extend above the parapet wall.

**Sec. 21-18. - Ground signs.**

- (a) The height of all ground signs at their highest point above the level of the ground shall not exceed twenty (20) feet in non-residentially zoned districts; however, when the ground level is lower than the level of the adjoining street pavement, then a sign may be raised so as to be no more than twenty (20) feet above the level of the pavement. Residentially zoned districts shall be governed by section 21-13 above. The level of the ground shall not be altered in such a way to provide additional sign height. The height of monopole sign structures shall be measured from the base of the pole at ground level to the top of the pole or top of the highest sign face, whichever is higher. The height of any multi-pole sign structure shall be measured the same as a monopole structure, except that the measurement shall be made using the shortest pole. Ground signs shall be measured from the ground level base of the sign structure (deemed to include any skirting) to the highest point of the sign.
- (b) The height of any directional sign shall not be more than three (3) feet above the ground.
- (c) All ground signs allowed for primary facades shall place between the primary facade and the street the primary facade faces.
- (d) All ground signs allowed for secondary facades shall place between the secondary facade and the street the secondary facade faces.
- (e) All ground signs in the PC-1, PC-2, and PC-3 zoning district and Brookhaven-Peachtree Overlay district shall be monument signs.

**Sec. 21-19. - Canopy signs.**

Canopy signs shall be no less than eight (8) feet above the ground when erected over pedestrian walkways and fourteen (14) feet above areas of vehicle service access at the lowest extremity of the sign. No canopy sign shall extend above the parapet wall.



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**Sec. 21-20. - Non-residential zoning district regulations.**

- (a) In addition to all other applicable regulations in this chapter, all lots that are located in non-residential districts not developed as a planned commercial center are limited to the following signs:

	Ground Sign	Canopy or Wall Sign	Projecting Sign	Directional Sign	Entrance Sign	Subdivision Sign	Window Sign
Max height	20'	N/A	20' or height of building	3'	8'	12'	N/A
Max width	15'	80% of the wall or canopy width	N/A	3'	8'	15'	N/A
Max sq. ft.	<a href="#">160</a>	30 sq. ft. or 4 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of <a href="#">150</a> sq. ft. for buildings under 12 stories and up to 500 sq. ft. for buildings 12 stories or more. (See <a href="#">Sec. 21-17(b)</a> )	40'	6'	32'	100'	10% of the window space
Max number allowed	1/facade (See Note 1)	1/primary facade and 1/secondary facade	1/primary facade and 1/secondary facade	2/authorized curb cut	1/entrance	1/subdivision	N/A
Max projection	N/A	6'	2'	N/A	N/A	N/A	N/A



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from structure							
Required setback from electrical transmission lines	10'	N/A	0'	10'	N/A		

(b) In lieu of the sign regulations of Table (a) above, a lot located in a non-residential district and developed as a planned commercial center shall be allowed the following:

	Ground Sign	Canopy or Wall Sign	Directional Sign	Entrance Sign	Window Sign
Maximum height	20'	N/A	3'	8'	N/A
Max width	20'	80% of the wall or canopy width	3'	8'	N/A
Max sq. ft.	200	30 sq. ft. or 4 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of <u>150</u> sq. ft. for buildings under 12 stories and up to 500 sq. ft. for buildings 12 stories or more. (See <a href="#">Sec. 21-17(b)</a> )	6	32	30% of the window space for buildings under 50,000 sq. ft. 10% of the window area for buildings 50,000 sq. ft. or over
Max number Allowed	One per facade (See Note 1)	1/primary facade and 1/secondary facade	2/authorized curb cut	1/entrance	N/A
Required setback from electrical	10'	N/A	0'	10'	N/A



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transmission lines					
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- (c) No property zoned for non-residential use may have more than one (1) ground sign that is oriented towards travelers along the same street.
- (d) In addition to those regulations set forth in subsection (a) and (b) above, no person may maintain a lot zoned for commercial use where the aggregate sign area exceeds four hundred fifty (450) square feet, or two (2) square feet of signage for each one hundred (100) square feet of floor area, whichever is greater, regardless of the construction, placement or type of sign or signs.

**Sec. 21-21. - Special event signs.**

A site containing an authorized use and located in a non-residential zoning district or a place of worship, private elementary, middle, or high school in a residential zoning district is allowed special event signs for a special use or event, only under the following conditions and subject to the following requirements:

- (1) Prior to the special event or use, and the erection and placement of the sign or device, an application for permit shall be filed with the director;
- (2) The signs and devices shall be constructed of, or shall be described as, poster board, banners, metal, wood, pennants, flags, balloons, twirlers, streamers, and portable displays;
- (3) The maximum size allowance for all the devices and signs shall not exceed two hundred (200) square feet;
- (4) The signs may be attached to the exterior wall or walls of a building, no higher than the top of the parapet or roof and shall not be placed, located or connected nearer than fifty (50) feet from the center of the street or roadway, or twenty (20) feet from the curb or edge of the pavement, whichever is further from the center of the street or roadway; and
- (5) The maximum number of special event sign permits to be issued to a single site or location shall be two (2) per calendar year for a period of time not to exceed sixteen (16) days for each issuance.

**Sec. 21-22. - Electronic signs.**

- (a) Electronic signs shall be allowed as part of a lawfully permitted sign only in C-1, C-2, M, and M-2 zoning districts, but only if the electronic sign complies with all of the following requirements:
  - (1) No message may be displayed for less than six (6) seconds;
  - (2) No message may be repeated at intervals less than three (3) seconds;
  - (3) No segmented message may last longer than ten (10) seconds;
  - (4) No traveling message may travel at a rate slower than sixteen (16) light columns per second or faster than thirty-two (32) light columns per second;



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- (5) Electronic signs shall not exceed a maximum illumination of six thousand three hundred (6,300) nits during the daylight hours and a maximum illumination of five hundred (500) nits between dusk to dawn, as measured from the sign's face at maximum brightness; and
  - (6) The electronic sign shall be limited to twenty-five (25) percent of the sign area of the lawfully permitted sign.
- (b) One (1) electronic sign as part of a lawfully permitted sign shall be allowed in places of worship or in public or private elementary, middle, or high schools, if such establishments are located on property zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, R-NCD, PC-1, PC-2 or PC-3, O-I, so long as the electronic sign complies with all of the following requirements:
- (1) Electronic ground signs shall be limited to a maximum height of fifteen (15) feet, and sign copy area shall be limited to one hundred (100) square feet;
  - (2) Electronic signs may only be located along a major or minor thoroughfare;
  - (3) Electronic signs shall not exceed a maximum illumination of six thousand three hundred (6,300) nits during the daylight hours and a maximum illumination of five hundred (500) nits between dusk to dawn, as measured from the sign's face at maximum brightness;
  - (4) Electronic signs shall contain a default of an electronic freeze and a black screen in the event of a sign malfunction; and
  - (5) The electronic message portion of the sign shall be limited to twenty-five (25) percent of the 100 square foot sign area of the lawfully permitted sign.
- (c) No electronic sign shall be illuminated by blinking, intermittent, or flashing lights simulating movement.
- (d) The owner of any electronic sign or the holder of a sign permit for an electronic sign shall be required to submit annual certification to the Director by an electrical engineer licensed in the State of Georgia that the lighting on the electronic sign meets the standards in effect. The annual certification must be submitted to the Director no later than January 31<sup>st</sup> for each year.

**Sec. 21-23. - Nonconforming signs.**

- (a) The city finds that nonconforming signs may adversely affect the public health, safety and welfare. Such signs may adversely affect the aesthetic characteristics of the city and may adversely affect public safety due to the visual impact of said signs on motorists and the structural characteristics of said signs.
- (b) Any nonconforming sign that is not used or leased for a continuous period of one (1) year shall not be reused for sign purposes unless and until it fully conforms with the terms and requirement of this chapter.
- (c) Illegal signs must be removed within thirty (30) days of notice from the city.
- (d) No structural repairs, or changes in shape, size or design, to any nonconforming sign shall be permitted except to make a nonconforming sign comply with all requirements of this chapter. Routine maintenance and changing of copy shall be permitted as long as such maintenance or changing of copy does not result in or change the shape, size, or design. Any change from a non-electronic format to an electronic format is considered a change in design and not permitted with respect to a nonconforming sign, unless the sign is brought fully into compliance with all requirements at the time of such change. Signs which are structurally unsound or present a hazard to persons or property must be removed within two (2) days upon notification by the city.



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- (e) A nonconforming sign structure may not be replaced by another nonconforming sign structure, except that a non-conforming sign may be rebuilt where the original sign structure has been damaged or destroyed by nature or an act of god. No such replacement structure may have a sign area or height greater than the original structure.

**Sec. 21-24. - Illumination.**

No sign shall give off light that glares, blinds or has any other such adverse effect on traffic or adjacent properties. The light from an illuminated sign shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways. No illuminated sign shall be constructed or maintained within seventy-five (75) feet of any single-family lot property line.

**Sec. 21-25. - Standard informational signs.**

The following shall apply to standard informational signs:

- (a) One (1) sign per lot not to exceed sixteen (16) square feet in area, or up to four (4) signs not to exceed an aggregate sign area of sixteen (16) square feet. Standard information signs shall count toward the aggregate sign area limitation on a lot.
- (b) All standard informational signs shall be erected to a height not greater than six (6) feet above ground level.

**Sec. 21-26. Sidewalk signs.**

Sidewalk signs shall be allowed within the Brookhaven-Peachtree Overlay District. The following shall apply to sidewalk signs:

- (1) Sign composition material: Wood or Metal (dry erase or chalk board style).
- (2) Setback from Right-of-way: Must be situated to allow for clear passage with a minimum accessible sidewalk width of 36" and compliance with the American with Disabilities Act.
- (3) Number of Signs allowed: One (1) per establishment.
- (4) Maximum Height: Three (3) feet.
- (5) Sign Area: No larger than six (6) square feet.
- (6) Sign placement per establishment shall not be placed beyond the exterior wall façade per tenant space.
- (7) All sidewalk signs shall be removed daily upon cessation of business hours and shall be stored indoors.



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- (8) No sidewalk signs shall be lit, contain neon, or contain plastic construction or embellishment.
- (9) Evidence of neglect or dilapidation of any sidewalk sign shall provide cause for immediate removal.
- (10) Sidewalk signs shall not require a sign permit or authorization sticker affixed to the subject sign.

**Sec. 21-27. - Variances.**

- (a) Where a literal application of this chapter, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the zoning board of appeals after receiving evidence that the applicant meets all of the following criteria:
  - (1) Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area;
  - (2) Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;
  - (3) The exceptional circumstances are not the result of action by the applicant;
  - (4) The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;
  - (5) Granting of the variance would not violate more than one (1) standard of this article; and
  - (6) Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstructs or otherwise interferes with the safe and orderly movement of traffic.
- (b) No variance shall be granted to the height of a sign which increases the height of the sign more than twenty (20) percent of that allowed by this chapter.
- (c) No variance shall be granted to increase the aggregate area of signs permitted by this chapter.
- (d) No variance shall be granted which increases the size of a sign more than twenty (20) percent of that allowed by this chapter.
- (e) No variance shall be granted to increase the size or height of a banner or standard informational sign

**Sec. 21-28. - Flags.**

- (a) All flags greater than two (2) square feet shall be displayed on flagpoles, which may be vertical or mast arm flagpoles. In non-residential districts, flagpoles shall not exceed the height allowed in the applicable zoning district, or sixty (60) feet, whichever is less. Flagpoles in residential districts shall not exceed twenty-five (25) feet in height or the height of the primary structure on the lot, whichever is less.
- (b) The maximum dimensions of any flag shall be proportional to the flagpole height. The hoist side of the flag shall not exceed twenty (20) percent of the vertical height of the flagpole. In addition, flags are subject to the following limitations:

Pole Height	Flag Size Maximum
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(feet)	(total square feet)
Up to 25	24
25—39	40
40—49	<u>60</u>
50—60	96

- (c) Each lot shall be allowed a maximum of two (2) flagpoles.
- (d) A maximum of two (2) flags shall be allowed per flagpole.
- (e) A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.
- (f) Flags and flagpoles shall be maintained in good repair, and to the extent applicable shall be in compliance with the building code. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.
- (g) On officially designated city, state, or federal holidays, there shall be no maximum flag size or number or other limitations on display.
- (h) This section shall not be construed to restrict the right to display eligible flags as banners or non-commercial signage as provided elsewhere in this article.

**Sec. 21-29. – Banners.**

Banners shall conform to the following standards:

- (1) Each banner shall not exceed twenty-four (24) square feet and no banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet or shall not extend more than five (5) above grade when on the ground;
- (2) Each banner must be individually attached to poles, mast arms, or other structures;
- (3) No more than one (1) banner shall be displayed on any lot at one (1) time;
- (4) Banners shall be allowed for a period not exceeding fourteen (14) days with no more than three (3) such fourteen (14) day periods being permitted per calendar year per lot;
- (5) Each lot in a residential zoning district may display banners not exceeding twenty-four (24) square feet, without receiving a permit. However, this fourteen (14) day period shall begin on the date when noticed by the City of if a complaint is filed; and
- (6) All banners must be maintained in good condition as provided for flags in section 21-28 above.



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**Sec. 21-30. - Severability.**

In the event any section, subsection, sentence, or word of this chapter is declared and adjudged to be invalidated or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this chapter, which shall remain in full force and effect as if such portion so declared or adjudged unconstitutional were not originally part of this chapter, even if the surviving parts of the chapter result in greater restrictions after any unconstitutional provisions are stricken. The City Council declares that it would have enacted the remaining parts of this chapter if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional. The City Council declares its intent that should this chapter be declared in part or in whole, signs are to be subject to regulations applicable to "structures" contained in other ordinances, including the zoning ordinance.



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ORD 2014-09-04

**SECTION II:**

**Severability:** Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**SECTION III:**

**Repeal of Conflicting Provisions:** All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

**SECTION IV:**

**Effective Date:** This ordinance shall be effective immediately upon adoption.

SO ORDAINED, this 23rd day of Sept., 2014.



APPROVED:

J. Max Davis, Mayor

ATTEST:

Susan Hiott, City Clerk 9/23/14

APPROVED AS TO FORM:

Thompson Kurrie, Jr., City Attorney